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EXAMINER	
ABEL JALIL, NEVEEN	

ART UNIT	PAPER NUMBER
2165	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/678,860	GREIFENEDER ET AL.	
	Examiner	**Art Unit**	
	Neveen Abel-Jalil	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 2/7/08.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 and 16-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) 1-14 and 16-20 is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a)☐ All b)☐ Some * c)☐ None of:
1.☐ Certified copies of the priority documents have been received.
2.☐ Certified copies of the priority documents have been received in Application No. _____.
3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. In response to Applicant's Amendment filed on February 7, 2008, claims 1-14, and 16-20 remain pending in the application.

2. Applicant's response has overcome the previous specification objection, and claim rejections under 112, first and second.

3. In accordance with Applicant's response regarding the specification providing ample description of what one of ordinary skill in the art would consider to be computer readable medium, the Examiner request that it would be made of record as to where those examples can be found. What page, line number? To expedite prosecution, for the purpose of examination, the "computer readable medium" is being treated as composed of statutory embodiment only excluding any signals, carrier waves, radiation, transmission, or communication links per se.

Claim Objections

4. Claims 17-18 are objected to because of the following informalities: Claims 17 and 18 still recite "The computer implemented system" although they depend on claim 3 which now recites "The system". Therefore, the terms "computer implemented" should be deleted for consistency. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-14, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Masters et al. (U.S. Patent No. 7,051,098 B2).

As to claim 1, Masters et al. discloses a system for managing and monitoring one or more computer systems, said system comprising:

a computer having a processor, a storage device, a memory device and a network device configured to receive monitoring information from one or more computer systems, the monitoring information concerning the operation of the one or more respective computer systems (See Figure 1B); and

a computer readable medium encoded with computer program (See Figure 1A, wherein "medium" reads on "operating system") configured to instruct the computer to perform the steps of:

acquiring instructions from a configuration stored in the computer storage device (See column 8, lines 43-53), said configuration including a service table identifying one or more services that are useable to monitor at least one of said computer systems (See column 47, lines 11-25, and see column 31, lines 1-10, service appears to broadly described in the specification and may not even exist for some sources, therefore, it is broadly interpreted to be any broad functionality, wherein the recitation of “that are useable” should be deleted since it provides an intended use instead of the actually functionality of "to monitor"), a detection table identifying information utilized to detect at least one of the accessible data sources (See column 46, lines 29-39, wherein only “interested processes” are being tabled by the detecting host monitor), and a metric table identifying a metric for the at least one data source (See column 13, lines 18-24, wherein any collected metric is stored and thus placed in a table);

using a data source detection module to detect accessible services in said one or more computer systems (See column 7, lines 33-55);

probing said one or more computer systems for one or more accessible data sources related to the detected accessible services (See column 9, lines 27-35, and see column 19, lines 1-19);

selecting at least one metric related to at least one of the accessible data sources (See Figure 7A, shows the metric “CPU utilization”, and metric “Packets in” selected by user for view);

probing said one or more data sources based on the instructions acquired from the configuration for accessible data sources (See column 11, lines 40-50);

generating a list of the accessible data sources for the selected metric in said probed computer systems (See column 10, lines 40-52, and see column 11, lines 31-50) said list comprising a subset of combinations of said data sources specified by said configuration (See column 8, lines 60-65, also see column 10, lines 64-67);

retrieving from at least one of said accessible data sources monitoring information corresponding to the at least one selected metric (See Figure 7A, shows the metric "CPU utilization" , and metric "Packets in" selected by user for view).

As to claim 2, Masters et al. discloses wherein the data sources are monitoring information sources in said one or more computer systems (See Figure 1B, shows host monitors); and

the at least one metric is related to said monitoring information sources, said metric being detected by the data source detection module to output said list of said accessible data sources (See column 56, lines 25-33, claim language, it is unclear which metric is being referenced, the selected or the identified one).

As to claim 3, Masters et al. discloses further comprising:

provide monitoring information of one of said computer systems (See column 10, lines 40-52); and

probe said monitoring information to monitor the one of said computer systems (See Figure 1B, shows various agents i.e. probe).

As to claim 4, Masters et al. discloses further configured to:

collect performance information from said data sources utilizing data collection tools (See column 9, lines 47-59), and receive from a user a selection of said data sources for monitoring (See column 24, lines 45-60, wherein the recitation of “for” is interpreted as intended use and should be replaced with “to be”).

As to claim 5, Masters et al. discloses further configured to:

provide an interactive graphical user interface for user interaction with said data source detection module and said data collection tools (See column 24, lines 45-60).

As to claim 6, Masters et al. discloses a method for automated detection of monitoring data sources of at least one computer system, said method comprising the steps of:

providing a configuration containing instructions to query at least one of said at least one computer system (See corresponding rejection in claim 1 above), said configuration comprising a service tale identifying one or more services that are useable to monitor said at least one computer system (See corresponding rejection in claim 1 above), a detection table identifying information to detect at least one for the monitoring data sources (See corresponding rejection in claim 1 above), and a metric table identifying a metric for the at least one of the monitoring data sources (See corresponding rejection in claim 1 above);

providing a data detection module (See corresponding rejection in claim 1 above);

identifying, by said data detection module using said configuration, accessible data sources of at least one of said at least one computer system (See corresponding rejection in claim 1 above);

collecting from at least one of said computer systems meta and performance information of said accessible data sources of at least one of said at least one computer system (See Figure 10A, shows meta and performance data);

embedding an expert's knowledge concerning monitoring information services into a monitoring-configuration in software used to automate said step of collecting meta and performance information (See column 42, lines 35-39);

presenting said meta and performance information to a user (See Figure 5A); and

presenting a list of said identified accessible data resources to said user (See corresponding rejection in claim 1 above).

As to claim 7, Masters et al. comprising the step of:

receiving access information from said user, wherein said access information comprises one member of the group consisting of a username and a password (See column 15, lines 55-56).

As to claim 8, Masters et al. discloses comprising the steps of:

receiving a list of data sources chosen by said user (See Figure 10A, shows meta and performance data for user selected data sources);

extracting said meta and performance data from said chosen data sources (See Figure 10A, shows meta and performance data); and

presenting said meta and performance data to said user (See Figure 10A, shows meta and performance data).

As to claim 9, Masters et al. discloses comprising the step of:

utilizing a probe engine to verify whether a service of one of said at least one computer system is responding determining said meta and performance data of an environment in which said service is running, in response to said probe engine verifying said service is running (See column 11, lines 47-50, and see column 19, lines 4-24).

As to claim 10, Masters et al. discloses wherein the service probing step is performed for each service of said at least one computer system (See Figure 5A, and see column 10, lines 40-53, wherein due to the lack of description of what service type is, its hard to attribute service type).

As to claim 11, Masters et al. discloses comprising the step of:

utilizing said probe engine to identify at least one monitoring information source in said at least one computer system and stores said monitoring information source in a list of said at least one identified monitoring information sources (See column 24, lines 17-29, wherein "probe" is read on "agent").

As to claim 12, Masters et al. discloses wherein the monitoring information source probing step utilizes the probe engine to identify the monitoring information source and storing the monitoring information source in the list of detected monitored information sources are performed for each monitoring information source of said at least one computer system (See column 20, lines 1-10).

As to claim 13, Masters et al. discloses comprising the step of:

utilizing said probe engine to determine a metric associated with each of said monitoring information sources (See Figure 10A, shows meta and performance data).

As to claim 14, Masters et al. discloses wherein said meta information comprises set-up information of said at least one computer system (See Figure 10A, shows meta and performance data).

As to claim 16, Masters et al. discloses wherein said list receiving step comprises receiving a range of data sources of said network environment, said range being specified by said user (See column 49, lines 8-26).

As to claim 17, Masters et al. discloses wherein:

the monitoring information is associated with a first service type (See Figure 5A, and see column 10, lines 40-53, wherein due to the lack of description of what service type is, its hard to attribute first and second type);

the probing step corresponds to a second service type (See Figure 5A, and see column 10, lines 40-53, wherein due to the lack of description of what service type is, its hard to attribute first and second type); and the probing step is performed in response to the first service type of the monitoring information (See Figure 5A, and see column 10, lines 40-53, wherein due to the lack of description of what service type is, its hard to attribute first and second type).

As to claim 18, Masters et al. discloses wherein the lists of the accessible data sources and the detected metrics are populated while the probing step identifies all of the accessible data sources and detected metrics (See column 11, lines 1-10).

As to claim 19, Masters et al. discloses wherein each of said services identified in said service table are associated with a service type, the method further comprising the step of activating a probe engine according to at least one service type, wherein the probe engine probes a monitoring information service to monitor information of the computer system (See column 25, lines 24-45, wherein "service type" is read on applications "specific to host system").

As to claim 20, Masters et al. discloses wherein the step of collecting meta and performance further comprises populating the list of the accessible data sources, wherein the list of the accessible data sources is initially empty (See column 24, lines 45-66, wherein "empty" reads on "user controlled" and can be populated according to modification made to the configuration).

Response to Arguments

6. Applicant's arguments filed on February 7, 2008 have been fully considered but they are not persuasive.

Applicant's argument found on page 12 of the remarks that " Masters et al. does not teach or suggest probing data sources on the detected hosts based on instructions from a configuration file" is respectfully acknowledged but not deemed to be persuasive.

Masters et al. in column 11, lines 40-50 teaches the querying for configuration information of hosts to be monitored and subsequently monitoring hosts for data including their configuration.

Claim 1 suggest that a central computer acquires instructions from other computers including configuration information and that a single host is being monitored for its sources as stated in line 19 wherein the cited limitation is "at least one of said computer systems" (i.e. single host), the claim proceeds to state "detecting at least one of the accessible data sources" which is interpreted to be within the monitored computer system (i.e. single host). The claim language appears to contradict Applicant's remarks, accordingly remain rejected under Masters et al.

In fact, Masters et al. teaches in column 55, lines 61-67 "the first function group includes host monitor functions instantiated by first selected ones of the N hosts which generate first data corresponding to performance of all hosts and network devices in the distributed environment; the second function group includes application monitoring functions instantiated by corresponding ones of the N hosts which generate second data indicative of performance of the M managed characteristic applications; and one of the first and the second function groups provides metric functions instantiated by second selected ones of the N hosts which generate performance metrics based on the first and the second data and provides the performance metrics to the third function group" thus no different than the argued limitations.

Claim 1 does not suggest, in any way, what the acquired configuration information is relevant to? The claim's repeated use of computer and computer system and accessible sources in various parts is awkward and confusing making it difficult to ascertain what information is being monitored and where.

Applicant's argument found on page 12 of the remarks that " Masters et al.'s host monitors do not acquire instructions from a configuration file nor do they probe for available data sources" is respectfully acknowledged but not deemed to be persuasive.

Configuration file is simply the initial settings for a computer program and thus taught in Masters' column 10, lines 18-52, and column 11, lines 40-50 wherein the discovery of new hosts and their configuration is disclosed. Clearly, setting up monitoring agents for the networked hosts in Masters et al. clearly encompass acquiring instructions of the current running configuration as to be able to detect what applications and services are running on the computer systems. It is not clear from the claims if this configuration file and its instructions have any distinguishing features apart of what is inherent and well known in the art nor different from what is being taught by Masters et al.

The claimed limitations of "probe for available data sources" is reasonably broad and may encompass wide range of definitions anywhere from monitoring hosts, monitoring applications, bandwidth, services etc. While "available" is not made clear as to whom or what? Is meant to be stated as "avaible" to perform certain services? Therefore, it is reasonable to be read in view of Masters et al.'s teachings.

No where in claim 6 is there any indication that the "computer system" is anything other than a host with its applicable data sources being managed and monitored. Probing available resources is not in fact discovering any new sources nor indicating that they were not previously allocated or defined. In fact, it is apparently based on what configuration is currently active, sources associated it with it will be detected and made available. Once any alteration to the configuration takes place, those data sources will themselves be changed and thus new or different combination of recourses will be made available just as taught by Masters et al.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian P. Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
Primary Examiner
March 21, 2008
/Neveen Abel-Jalil/
Primary Examiner, Art Unit 2165